IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 12212 of 2007
Date of Decision: August 9,2007

Gian Chand ..... Petitioner

Versus

Union of India and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mr. Justice T.P.S. Mann

Present: Mr. Y.P.Malik, Advocate
for the petitioner.

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ASHUTOSH MOHUNTA, J.

The petitioner has prayed for quashing the order dated 25.1.2005 (Annexure P-4) vide which he was dismissed from service of the Cantonment Board, Ambala, with effect from 10.1.2005. The petitioner has also impugned Annexure P-6 by which his representation was dismissed.

The petitioner was appointed as a Safai Karamchari on regular basis in the Cantonment Board, Ambala, on 16.4.1981. The petitioner was an accused in a criminal case in FIR No.140 dated 15.5.1989 under Sections 304/323/324/34 IPC registered at Police Station Sadar Ambala. The Additional Sessions Judge, Ambala, vide judgment Annexure P1 convicted the petitioner under Section 304-I read with Section 149 of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for a period of four years along with a fine of Rs.500/-. He was also sentenced to undergo rigorous imprisonment for a period of six months under Section 148 IPC. The petitioner was also sentenced to rigorous imprisonment for six

months under Section 324 read with Section 149 IPC. The petitioner filed an appeal against the aforementioned judgment in the High Court which was dismissed vide judgment Annexure P-3. However, the sentence of the petitioner was reduced from four years to two years rigorous imprisonment under Section 304 Part-I read with Section 149 IPC.

As the petitioner stood convicted in the criminal case, hence, he was dismissed from service of the Cantonment Board vide orders dated 25.1.2005 (Annexure P-4) passed by the Cantonment Executive Officer, Ambala. The petitioner filed a representation-Annexure P5 which has also been dismissed vide Annexure P-6.

The petitioner has prayed that directions be issued to the respondents to reinstate him in service with consequential service benefits or in the alternative grant him pensionary benefits.

Counsel for the petitioner submits that no opportunity of hearing was provided to the petitioner before ordering his dismissal from service. Learned counsel further submits that the disciplinary authority was bound to apply its mind to the antecedents of the petitioner, his past service record and the nature of offence for which the petitioner has been convicted.

In the present case, the allegations against the petitioner were that one Suresh Kumar alongwith his companion Ram Chander approached the vegetable shop of one Man Singh and demanded vegetables from him. They were told to wait as the deceased Man Singh was attending to some other customers. Upon this, Ram Chander and Suresh Kumar got enraged and caught hold of Man Singh and started beating him. In the meantime, the petitioner, who was armed with a Lathi, Sarwan Ram, Baseshar Ram and Krishan Lal who also armed with Lathis and Kulharis arrived there and started giving beating to Man Singh. As a result of the blow given by the petitioner and the other co-accused, Man Singh died. The petitioner was charged under Section 302/148 and 324/323 read with Section 149 IPC. However, they were convicted under Section 304 Part-I read with Section 149 IPC as well as Section 323/324 and 148 IPC.

Keeping in view the fact that the petitioner stands convicted in a criminal case and he has rightly been dismissed from service vide orders Annexure P-4, there is no ground to give any direction for either

reinstatement of the petitioner or to grant him the pensionary benefits.

No merit. Dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

9.8..2007 **(T.P.S. MANN)**
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